

[See main edition for text of (a) to (k)]

(l) The term "compensation, terms, conditions, or privileges of employment" encompasses all employee benefits, including such benefits provided pursuant to a bona fide employee benefit plan.

(As amended Pub. L. 101-433, title I, § 102, Oct. 16, 1990, 104 Stat. 978.)

#### AMENDMENTS

1990—Subsec. (l). Pub. L. 101-433 added subsec. (l).

#### EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-433 applicable only to any employee benefit established or modified on or after Oct. 16, 1990, and other conduct occurring more than 180 days after Oct. 16, 1990, except as otherwise provided, see section 105 of Pub. L. 101-433, set out as a note under section 623 of this title.

### § 631. Age limits

(a) Individuals at least 40 years of age

The prohibitions in this chapter shall be limited to individuals who are at least 40 years of age.

[See main edition for text of (b) to (d)]

(As amended Pub. L. 101-239, title VI, § 6202(b)(3)(C)(ii), Dec. 19, 1989, 103 Stat. 2233.)

#### AMENDMENTS

1989—Subsec. (a). Pub. L. 101-239 struck out "(except the provisions of section 623(g) of this title)" after "in this chapter".

#### EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-239 applicable to items and services furnished after Dec. 19, 1989, see section 6202(b)(5) of Pub. L. 101-239, set out as a note under section 162 of Title 26, Internal Revenue Code.

### § 633a. Nondiscrimination on account of age in Federal Government employment

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 626, 631 of this title; title 5 sections 2302, 7702, 7703; title 22 section 3905.

## CHAPTER 15—OCCUPATIONAL SAFETY AND HEALTH

§ 653. Geographic applicability; judicial enforcement; applicability to existing standards; report to Congress on duplication and coordination of Federal laws; workmen's compensation law or common law or statutory rights, duties, or liabilities of employers and employees unaffected

### EPA ADMINISTRATOR NOT EXERCISING "STATUTORY AUTHORITY" UNDER THIS SECTION IN EXERCISING ANY AUTHORITY UNDER TOXIC SUBSTANCES CONTROL ACT

In exercising any authority under the Toxic Substances Control Act (15 U.S.C. 2601 et seq.) in connection with amendment made by section 15(a) of Pub. L. 101-637, the Administrator of the Environmental Protection Agency not, for purposes of subsection (b)(1) of this section, to be considered to be exercising statutory authority to prescribe or enforce standards or regulations affecting occupational safety and health, see section 15(b) of Pub. L. 101-637, set out as a note under section 2646 of Title 15, Commerce and Trade.

## § 655. Standards

### RETENTION OF MARKINGS AND PLACARDS

Pub. L. 101-615, § 29, Nov. 16, 1990, 104 Stat. 3277, provided that: "Not later than 18 months after the date of enactment of this Act (Nov. 16, 1990), the Secretary of Labor, in consultation with the Secretary of Transportation and the Secretary of the Treasury, shall issue under section 6(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655(b)) standards requiring any employer who receives a package, container, motor vehicle, rail freight car, aircraft, or vessel which contains a hazardous material and which is required to be marked, placarded, or labeled in accordance with regulations issued under the Hazardous Materials Transportation Act (49 App. U.S.C. 1801 et seq.) to retain the markings, placards, and labels, and any other information as may be required by such regulations on the package, container, motor vehicle, rail freight car, aircraft, or vessel, until the hazardous materials have been removed therefrom."

### CHEMICAL PROCESS SAFETY MANAGEMENT

Pub. L. 101-549, title III, § 304, Nov. 15, 1990, 104 Stat. 2576, provided that:

"(a) **CHEMICAL PROCESS SAFETY STANDARD.**—The Secretary of Labor shall act under the Occupational Safety and Health Act of 1970 (29 U.S.C. 653) [29 U.S.C. 651 et seq.] to prevent accidental releases of chemicals which could pose a threat to employees. Not later than 12 months after the date of enactment of the Clean Air Act Amendments of 1990 (Nov. 15, 1990), the Secretary of Labor, in coordination with the Administrator of the Environmental Protection Agency, shall promulgate, pursuant to the Occupational Safety and Health Act, a chemical process safety standard designed to protect employees from hazards associated with accidental releases of highly hazardous chemicals in the workplace.

"(b) **LIST OF HIGHLY HAZARDOUS CHEMICALS.**—The Secretary shall include as part of such standard a list of highly hazardous chemicals, which include toxic, flammable, highly reactive and explosive substances. The list of such chemicals may include those chemicals listed by the Administrator under section 302 of the Emergency Planning and Community Right to Know Act of 1986 [42 U.S.C. 11002]. The Secretary may make additions to such list when a substance is found to pose a threat of serious injury or fatality in the event of an accidental release in the workplace.

"(c) **ELEMENTS OF SAFETY STANDARD.**—Such standard shall, at minimum, require employers to—

"(1) develop and maintain written safety information identifying workplace chemical and process hazards, equipment used in the processes, and technology used in the processes;

"(2) perform a workplace hazard assessment, including, as appropriate, identification of potential sources of accidental releases, an identification of any previous release within the facility which had a likely potential for catastrophic consequences in the workplace, estimation of workplace effects of a range of releases, estimation of the health and safety effects of such range on employees;

"(3) consult with employees and their representatives on the development and conduct of hazard assessments and the development of chemical accident prevention plans and provide access to these and other records required under the standard;

"(4) establish a system to respond to the workplace hazard assessment findings, which shall address prevention, mitigation, and emergency responses;

"(5) periodically review the workplace hazard assessment and response system;

"(6) develop and implement written operating procedures for the chemical process including procedures for each operating phase, operating limitations, and safety and health considerations;

"(7) provide written safety and operating information to employees and train employees in operating procedures, emphasizing hazards and safe practices;

"(8) ensure contractors and contract employees are provided appropriate information and training;

"(9) train and educate employees and contractors in emergency response in a manner as comprehensive and effective as that required by the regulation promulgated pursuant to section 126(d) of the Superfund Amendments and Reauthorization Act [of 1986] [Pub. L. 99-499, set out in a note below];

"(10) establish a quality assurance program to ensure that initial process related equipment, maintenance materials, and spare parts are fabricated and installed consistent with design specifications;

"(11) establish maintenance systems for critical process related equipment including written procedures, employee training, appropriate inspections, and testing of such equipment to ensure ongoing mechanical integrity;

"(12) conduct pre-start-up safety reviews of all newly installed or modified equipment;

"(13) establish and implement written procedures to manage change to process chemicals, technology, equipment and facilities; and

"(14) investigate every incident which results in or could have resulted in a major accident in the workplace, with any findings to be reviewed by operating personnel and modifications made if appropriate.

"(d) STATE AUTHORITY.—Nothing in this section may be construed to diminish the authority of the States and political subdivisions thereof as described in section 112(r)(11) of the Clean Air Act (42 U.S.C. 7412(r)(11))."

#### § 656. Administration

##### REFERENCES IN OTHER LAWS TO GS-16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS-16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101-509, set out in a note under section 5376 of Title 5.

#### § 661. Occupational Safety and Health Review Commission

##### REFERENCES IN OTHER LAWS TO GS-16, 17, OR 18 PAY RATES

References in laws to the rates of pay for OS-16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101-509, set out in a note under section 5376 of Title 5.

#### § 666. Civil and criminal penalties

##### (a) Willful or repeated violation

Any employer who willfully or repeatedly violates the requirements of section 654 of this title, any standard, rule, or order promulgated pursuant to section 655 of this title, or regulations prescribed pursuant to this chapter may be assessed a civil penalty of not more than \$70,000 for each violation, but not less than \$5,000 for each willful violation.

##### (b) Citation for serious violation

Any employer who has received a citation for a serious violation of the requirements of section 654 of this title, of any standard, rule, or order promulgated pursuant to section 655 of this title, or of any regulations prescribed pur-

suant to this chapter, shall be assessed a civil penalty of up to \$7,000 for each such violation.

##### (c) Citation for violation determined not serious

Any employer who has received a citation for a violation of the requirements of section 654 of this title, of any standard, rule, or order promulgated pursuant to section 655 of this title, or of regulations prescribed pursuant to this chapter, and such violation is specifically determined not to be of a serious nature, may be assessed a civil penalty of up to \$7,000 for each such violation.

##### (d) Failure to correct violation

Any employer who fails to correct a violation for which a citation has been issued under section 658(a) of this title within the period permitted for its correction (which period shall not begin to run until the date of the final order of the Commission in the case of any review proceeding under section 659 of this title initiated by the employer in good faith and not solely for delay or avoidance of penalties), may be assessed a civil penalty of not more than \$7,000 for each day during which such failure or violation continues.

[See main edition for text of (e) to (h)]

##### (i) Violation of posting requirements

Any employer who violates any of the posting requirements, as prescribed under the provisions of this chapter, shall be assessed a civil penalty of up to \$7,000 for each violation.

[See main edition for text of (j) to (l)]

(As amended Pub. L. 101-508, title III, § 3101, Nov. 5, 1990, 104 Stat. 1388-29.)

#### AMENDMENTS

1990—Subsec. (a). Pub. L. 101-508, § 3101(1), substituted "\$70,000 for each violation, but not less than \$5,000 for each willful violation" for "\$10,000 for each violation".

Subsecs. (b) to (d), (i). Pub. L. 101-508, § 3101(2), substituted "\$7,000" for "\$1,900".

### CHAPTER 16—VOCATIONAL REHABILITATION AND OTHER REHABILITATION SERVICES

#### CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 762a, 780a, 2215 of this title; title 5 section 8104; title 20 sections 107a, 107d-4, 1013, 1203a, 1206a, 2323, 2403, 3441, 4356; title 21 section 1173; title 22 section 2102; title 26 section 51; title 38 sections 1517, 2014; title 42 sections 1320b-6, 3013, 3026, 6008, 6024, 6042, 6705, 12117, 12209, 12635.

### GENERAL PROVISIONS

#### § 706. Definitions

For the purposes of this chapter:

[See main edition for text of (1) to (7)]

(8) [See main edition for text of (A)]

(B) Subject to subparagraphs (C) and (D), the term "individual with handicaps" means, for purposes of subchapters IV and V of this chapter, any person who (i) has a physical or mental impairment which substantially limits one or